



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 96-8-33

Served 8/29/96

Issued by the Department of Transportation
on the 23 rd day of August, 1996

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Agreement Adopted by the Tariff Coordi- :
nating Conferences of the International : Docket OST-96-1478
Air Transport Association relating to : R-1 through R-9
composite cargo resolutions :

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ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreement was adopted at the Composite Meeting of the Cargo Tariff Coordinating Conference held in Geneva, Switzerland, January 30-February 8, 1995 for effective-ness August 1, 1996. 1~/ The individual resolutions are listed in the attached Appendices.

The agreement increases rates and charges from Tunisia (except to/from the United States) to reflect continued depreciation of the Tunisian Dinar. 2/ It also increases minimum charges from Italy, Lebanon, and Poland (except to/from the United States); amends the rounding units of the Italian Lira and the Bulgarian Lev; changes the currency of the dangerous goods handling fee from China from U.S. dollars to Chinese Yuan, and applies it to all areas, rather than only to Area 1; deletes the local currency special dangerous goods handling fee applicable in Austria and France; amends specif-ic commodity rates between non-U.S. points; removes the fixed agent

1/ IATA memorandum COMP Reso/C 0667 and COMP Reso/C 0669, filed with the Department June 24, 1996.

2/ IATA's procedures were conditionally approved by Orders 84-5-108, May 31, 1984, and 88-4-21, April 4, 1989. IATA monitors ex-change rate fluctuations and may propose offsetting fare and/or rate revisions when currency movements exceed certain criteria. The fare and rate provisions, however, must be filed and approved before being implemented.

commission for charter services within the European Community; rescinds three outmoded resolutions; and amends several resolutions to reflect simplified and standardized wording.

Finally, ten resolutions now coded as "Type A" resolutions are recoded to "Type B" resolutions. "Type A" resolutions are applied in their entirety; disapproval by any government authority of a resolution, or a portion thereof, is considered a disapproval of the entire resolution. "Type B" resolutions are considered divisible; disapproval by a government authority of a portion of a resolution is considered as rendering only that disapproved portion of the resolution as void.

Section 41309 of the Code directs us to approve any agreement or modification of an agreement if we find that it will not substantially lessen competition, and is not adverse to the public interest or in violation of the Code. With the exception of the currency adjustments and the standardization of wording in several resolutions, the agreement does not affect rates or conditions to or from U.S. points. ^{3/}

We find that, as previously conditioned, the resolutions incorporated in the above docket are not adverse to the public interest, in violation of the Code, or likely to lessen competition substantially, and that they should be approved.

Furthermore, we conclude that the resolutions contained in the agreement should be granted immunity from the operation of the antitrust laws to the extent necessary to permit their implementation. In general, they amend existing rates already approved and immunized by the Department. As a result, none raise immunity issues not previously considered, and the conferral of immunity upon them is consistent with our policy of conferring immunity on amendments coextensively with the underlying agreements.

Pursuant to the authority duly assigned under the Department's Regulations, 14 CFR 385.13:

1. We do not find that the resolutions in Docket OST-96-1478, as set forth in Attachment A and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest, in violation of the Code, or likely to lessen competition substantially;
2. We do not find that the resolutions in Docket OST-96-1478, as set forth in Attachment B to this order and which have indirect application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code; and

^{3/} We reaffirm our previous condition that any carrier may establish through rates based on a combination of local rates over U.S. points (Order 86-9-88.)

3. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Anti-trust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under 49 U.S.C. 41308.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference

machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-96-1478, as set forth in finding paragraph 1 above, subject to previous conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-96-1478, as set forth in finding paragraphs one and two above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and shall become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Policy and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)

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~Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-96-1478

COMP Reso/C 0667

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-2	CTC1(42)002aa CTC2(51)002aa CTC3(42)002aa CTC12(63)002aa CTC23(52)002aa CTC31(46)002aa CTC123(56)002aa	Special Amending Resolution (New)	Indefinite
R-4	CTC2(51)033d CTC12(63)033d CTC23(52)033d CTC123(56)033d	Currency Names, Codes, Rounding Off Units, And Acceptability Of Currencies (Amending)	Indefinite
R-6	CTC3(42)518 CTC23(52)518 CTC31(46)518 CTC123(56)518	Dangerous Goods Handling Fee (Amending)	Indefinite

Resolutions With Indirect Application In
Foreign Air Transportation, Docket OST-96-1478

COMP Reso/C 0667

<u>No.</u>	<u>Designation</u>	<u>Title</u>	<u>Expiry</u>
R-1	CTC2(51)001uu CTC12(63)001uu CTC23(52)001uu CTC123(56)001uu	Special Resolution - Neutral Air Waybill (Except USA And U.S. Territories) (Amending)	Indefinite
R-3	CTC2(51)003bb CTC12(63)003bb CTC23(52)003bb CTC123(56)003bb	General Increase Resolution - Rates From Tunisia (Except USA And U.S. Territories) (New)	Indefinite
R-5	CTC2(51)501 CTC12(63)501 CTC23(52)501 CTC123(56)501	Minimum Charges For Cargo (Except USA And U.S. Territories) (Amend- ing)	Indefinite
R-7	CTC2(51)590 CTC23(52)590 CTC31(46)590 CTC123(56)590	Specific Commodity Rates (Amend- ing)	Indefinite

COMP Reso/C 0669

R-8	CTC1(42)001dd CTC2(51)001dd CTC3(42)001dd CTC12(63)001dd	Special Amending Resolution - EC Member States (New)	Indefinite
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CTC23(52)001dd

CTC31(46)001dd

CTC123(56)001dd

R-9	CTC2(51)001mm	Special Resolution - Dangerous	Indefinite
	CTC12(63)001mm	Goods Handling Fee (Except USA	
	CTC23(52)001mm	And U.S. Territories) (Amending)	
	CTC123(56)001mm		